

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re *Ex Parte* Application of Diligence Global
Business Intelligence SA, pursuant to 28 U.S.C.
§ 1782 to Conduct Discovery for Use in Foreign
Proceedings

Petitioner,

Misc. Case No. M-

**DECLARATION OF NICHOLAS DAY IN SUPPORT OF DILIGENCE GLOBAL
BUSINESS INTELLIGENCE SA'S EX PARTE APPLICATION
FOR AN ORDER TO CONDUCT DISCOVERY FOR USE IN
FOREIGN PROCEEDINGS PURSUANT TO 28 U.S.C. § 1782**

I, NICHOLAS DAY, declare, under penalty of perjury under the laws of the United States of America pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. The facts set forth herein are based on my personal knowledge, unless otherwise indicated. I respectfully submit this Declaration in support of DILIGENCE GLOBAL BUSINESS INTELLIGENCE SA ("DGBI")'s application for discovery in aid of foreign proceedings under 28 U.S.C. § 1782. If called as a witness, I could and would testify to the same as stated herein.
2. I am the Chief Executive Officer of DGBI which is a Swiss company with seat at 5 Place de la Synagogue, Geneva 1204, Switzerland.

3. DGBI specializes in intelligence services and private investigations. DGBI is as such a member of the Swiss Association of Investigative and Economic Intelligence Professionals.

4. In January 2019, DGBI started to investigate allegations of corruption and money laundering in connection with the 2022 World Cup in Qatar.

5. This included an investigation into Cornerstone Global Associates LTD (“Cornerstone”) a private limited company incorporated in London, United Kingdom and its director and secretary Ghanem Mohammed Zaki Nuseibeh (“Ghanem Nuseibeh”).

6. On February 1, 2019, the New York Times published an article titled “Ahead of Qatar World Cup, a Gulf Feud Plays Out in the Shadows,” mentioning a report published by Cornerstone in 2017. A true and correct copy of the article is attached hereto as Exhibit 1.

7. In the article the New York Times referred to documents it had received from an anonymous source, claiming to be someone close to Cornerstone, which detailed strategies employed by Cornerstone. (See Exhibit 1 at p.1).

8. The article also describes a “project” by Cornerstone to pursue an agreement with Mike Holtzman, “a prominent public relations executive [...] to disclose damaging information about the World Cup bid in exchange for a \$1 million payment.” It further reports that Mike Holtzman made contact with Ghanem Nuseibeh, after the latter’s interview on the BBC, “saying that he has information about irregularities related to the Qatar FIFA bid that he is prepared to sell.” (See Exhibit 1 at p. 2).

9. Paul Tweed, Cornerstone's lawyer and Ghanem Nuseibeh's co-director in other UK companies, stated that the documents had been "misinterpreted and taken totally out of context." (*Id.*).

10. The New York Times reported that Ghanem Nuseibeh and Paul Tweed met with Mike Holtzman in New York in April or May 2018. (*Id.*).

11. Following the publication of the New York Times article, DGBI conducted online research into public registers and databases on Cornerstone and Ghanem Nuseibeh from its office in Geneva.

12. In 2020, DGBI commenced a limited and proportionate surveillance directed at the commercial activities of Ghanem Nuseibeh and Cornerstone, in accordance with applicable laws.

13. Cornerstone and Ghanem Nuseibeh discovered the investigation in September 2020.

14. By letter dated 21 October 2020, Paul Tweed, in his capacity as a partner of Gateley Tweed an English law firm representing Ghanem Nuseibeh and Cornerstone alleged "that there have been serious breaches of [Ghanem Nuseibeh's] privacy and data rights and a course of conduct amounting to harassment." A true and correct copy of this letter is attached hereto as Exhibit 2.

15. On 30 October 2020 DGBI filed a request for declaratory relief in Geneva, Switzerland (the "Geneva Action") in the knowledge that it had conducted its surveillance within the bounds of English Law. Attached hereto as Exhibit 3 is a true and correct copy of the Summons to Appear in the Geneva Action.

16. In its application DGBI requests that the Geneva court declare that DGBI, its organs and employees have not incurred any liability in contract, tort or otherwise to Cornerstone and/or Ghanem Nuseibeh in connection with the investigation conducted in relation to Cornerstone and/or Ghanem Nuseibeh and to find that Cornerstone and Ghanem Nuseibeh do not have any kind of claim against DGBI, its organs and employees.

17. DGBI's concern proved to be justified as on 13 November 2020, Paul Tweed, still in his capacity as a partner of Gateley Tweed an English law firm representing Ghanem Nuseibeh and Cornerstone accused DGBI of "conducting covert surveillance" when investigating "allegations of bribery, corruption and related money laundering." The letter further claimed that "there is, in fact, no proper justification for [DGBI's] surveillance activities." A true and correct copy of the letter is attached hereto as Exhibit 4.

18. English solicitors for Cornerstone and Ghanem Nuseibeh reiterated their allegations in a formal letter before claim dated 16 December 2020 putting DGBI on notice that they intended to make an application for a Norwich Pharmacal order and a request under the European General Data Protection Regulation. A true and correct copy of the letter is attached hereto as Exhibit 5.

19. In addition to the Geneva Action, DGBI expects that either Cornerstone or Ghanem Nuseibeh or both will file an action against DGBI, most likely in England (the "Potential English Action").

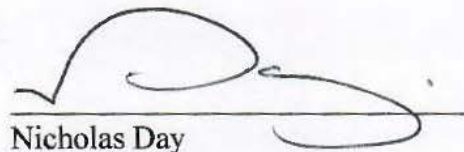
20. To support its position in the Swiss declaratory relief proceedings and defend itself in the Potential English Action, DGBI intends to demonstrate that its surveillance operation in the United Kingdom as part of its investigations into money laundering and corruption was properly founded and justified, on the basis, among other things that, as alleged in New York Times' article, Cornerstone paid or tried to pay Michael Holtzman USD 1 million in exchange for damaging information about the 2022 World Cup bid.

21. To do so, DGBI intends to obtain from Michael Holtzman—who is currently the President/Managing Partner of SECNewGate, a public relations firm based in Washington, and the President of Bellwether Strategies, a public relations firm based in New York, and formally the President of BLJ Worldwide in New York—oral testimony and documentary discovery as to his and or his companies' relationship with Cornerstone, Ghanem Nuseibeh and/or any affiliate thereof. A true and correct copy of Mike Holtzman's LinkedIn page is attached hereto as Exhibit 6.

22. DGBI intends to use the evidence acquired from Mr. Holtzman in support of its position in the Geneva Action and the Potential English Action.

23. Michael Holtzman is currently domiciled at 515 Weaver St., Larchmont, New York, 10538. A true and correct copy of whitepages.com is attached hereto as Exhibit 7.

Dated: April 16, 2021
Geneva, Switzerland



Nicholas Day